



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

www.berlinmd.gov



Mayor

Wm. Gee Williams, III

Vice President

Elroy Brittingham, Sr.

Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purnell

BERLIN, MARYLAND

MAYOR AND COUNCIL MEETING

Town Attorney

David Gaskill

MONDAY, OCTOBER 24, 2011

Town Administrator

Anthony J. Carson, Jr.

COUNCIL CHAMBERS – BERLIN TOWN HALL

10 WILLIAM STREET

BERLIN, MD 21811

EXECUTIVE SESSION6:30 PM

REGULAR SESSION7:00 PM

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144

TTY users dial 7-1-1 in the State of Maryland

TTY users outside Maryland dial 1-800-735-2258

**BERLIN MAYOR AND COUNCIL
COUNCIL MEETING
AGENDA
Monday, October 24, 2011**

6:30 PM EXECUTIVE SESSION - Berlin Conference Room

7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers

1. Approval of the Minutes for:
 Regular Session of the Mayor and Council on October 11, 2011
 Executive Session of the Mayor and Council on October 11, 2011
 Statement of Closure for Mayor and Council on October 11, 2011
2. Request for Special Event – Berlin Christmas Parade
 Thursday, December 1, 2011; 7:00 p.m.
3. Resolution 2011-08
 A Resolution approving, accepting and authorizing settlement in pending litigation.
4. Resolution 2011-09
 Community Legacy
5. Approval – Ordinance 2011-09
 An ordinance amending Chapter 80 – Property maintenance
6. Announcement of Fall Bulk Pickup
7. Departmental Reports
 - a. Finance – Lynn Musgrave
 - b. Deputy Town Administrator – Mary Bohlen
 - c. Public Works – Mike Gibbons
 - d. Water Resources – Jane Kreiter
 - e. Electric – Tim Lawrence
 - f. Police – Arnold Downing
 - g. Planning and Zoning – Chuck Ward
 - h. Human Resources – Jeff Fleetwood
 - i. Economic and Community Development – Michael Day
8. Town Administrator's Report
9. Comments from the Mayor
10. Comments from the Council
11. Comments from the Public

12. Comments from the Press

13. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND
Regular Session Council Minutes
Tuesday October 11, 2011

The meeting of the Mayor and Council for Tuesday, October 11, 2011 was called to order by Mayor Williams at approximately 7:00 p.m. Council members Lynch, Purnell, Burrell and Brittingham were present, as well as Town Administrator Tony Carson, Electric Utility Director Tim Lawrence, Administrative Assistant Sharon Timmons, Human Resources Director Jeff Fleetwood, Police Chief Arnold Downing, Finance Director Lynn Musgrave, Public Works Director Mike Gibbons, Town Attorney David Gaskill, Planning and Zoning Director Chuck Ward, Water Resources Director Jane Kreiter, Economic, Community Development Director Michael Day and Assistant Waterworks Superintendent Jocelyn Aydelotte. Councilmember Hall and Deputy Town Administrator Mary Bohlen were absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for a motion to approve the Regular Session Minutes of September 26, 2011. Councilmember Lynch made a motion to approve the minutes and the council voted to approve 4-0 with 1 absent.

Mayor Williams read Proclamation 2011-11 which proclaims November to be Municipal Government Works month.

Economic and Community Director Michael Day requested the approval of Holiday Arts Night and the Tree Lighting Ceremony to be held on November 25th. The tree lighting ceremony will take place at 5:30 p.m. with the Arts night beginning at 6:00 p.m. Mayor Williams stated that the public had requested that the Town purchase a larger tree and Steve Farr responded that they were looking to purchase a live tree that could be planted in the park after the holidays. Councilmember Burrell made a motion to approve the request and council voted to approve 4-0 with 1 absent.

Mr. Day continued with an update on the upcoming Octoberfest festivities which would be held this Saturday, October 15th from 12-6 p.m.

John Derrickson of Derrickson Enterprises came before the council requesting a tax abatement on the property which was recently annexed into the Town. Mr. Derrickson stated that the economy had changed and that due to the loss of rental businesses in the complex he was struggling financially. Councilmember Purnell responded to Mr. Derrickson by stating that he knew what he was getting into and to approve the abatement would be setting a precedence allowing others to follow. Councilmembers Burrell and Brittingham agreed with Councilmember Purnell's remarks. Councilmember Lynch stated that it was the wrong time and it was not the council's responsibility to bail someone out. Mayor Williams recommended that Mr. Derrickson speak with Town Administrator Carson and Mr. Day about using the Town's services to assist with filling the open spaces in the retail building. No action was taken by the council.

Town Attorney David Gaskill read Ordinance 2011-08 which amends Chapter 36, Brush, Grass and Weeds and reviewed the changes made to the ordinance. Councilmember Brittingham made a motion to approve the ordinance and council voted to approve 4-0 with 1 absent.

Town Administrator Carson noted that the approved and revised Preface for the Town Standards was in the packet for the council's review.

The public hearing Ordinance 2011-09, an ordinance amending Chapter 80, Property Maintenance was announced. Town Attorney David Gaskill read the ordinance in its entirety. Mayor Williams opened the Public hearing and asked for comments from the State or County. There being none, Mayor Williams

asked for comments from the public. Barb Stack of Washington Street stated that she felt the ordinance encouraged people in the Historic Downtown District to board up any extra windows and recommended that those windows currently boarded should be grandfathered, but not to allow any new windows to be boarded. She also recommended that a list be submitted of those property owners which currently have boarded windows along with pictures. Planning and Zoning Director Chuck Ward agreed with the recommendation, but stated that a deadline should be implemented and those owners who were non-compliant would face a violation. Councilmember Lynch recommended a date be added to #2 under Section D and only for commercial properties.

Reggie Mariner, owner of the property located at 201 William Street questioned the legality of such an ordinance. Mayor Williams stated that the Town had been making improvements throughout town with the quality and appearance of its infrastructure, and wanted to respect people's property rights, but as a community the Town could say what standards are acceptable. Town Attorney Gaskill stated that the Town has the authority to legislate property maintenance. Mr. Mariner questioned the materials being used to currently renovate a building within town. He stated that he is prepared to upgrade the front of the building located on William Street and considering changing it to a commercial building since it is in the B-1 district so that he would not have to replace the side windows. Councilmember Purnell stated that he would not have a problem taking the word commercial out of Section D-2. Mr. Ward stated that the word "commercial" could be deleted from Section D-2 of the ordinance, but the intent is to not to see boarded windows from any public way. Mayor Williams asked for any further comments from the public. There being none, Mayor Williams closed the Public Hearing and asked council for their input. Town Attorney Gaskill stated that if the word commercial is deleted from the ordinance, the ordinance will apply to all structures. Councilmember Lynch asked where Mr. Mariner would go to appeal if it was decided that the property on William Street was not a commercial and Mr. Gaskill said the Board of Zoning Appeals. Mr. Ward stated that this issue may fall under the Board of Housing Review. Mayor Williams recommended that the issue of appeals be added to the ordinance.

Mr. Mariner asked the council if they wanted the house torn down. Mayor Williams responded that the incentive was to find ways to rehabilitate and revitalize historic structures, not destroy them. Mayor Williams asked the council to think about the recommendations and also to have Mr. Ward and Mr. Gaskill revise the ordinance incorporating the recommended changes and bring back to the next meeting for review.

Director of Water Resources Jane Kreiter and Assistant Wastewater Superintendent Jocelyn Aydelotte came before the council and presented a video showing the condition of the Washington Street sanitary sewers. Ms. Kreiter stated that the sewers had been cleaned 7 years ago and the current conditions of the sewers showed that the sewers had not deteriorated as much as expected. The video of the storm drains was not available, but weak links were discovered at the end of Washington and Grace Streets. Mayor Williams asked Ms. Kreiter about her confidence of the lines holding up over the next 10 years. Ms. Kreiter responded that any vibrations or excavation could cause problems sooner and she recommended that no excavation be done at this time on the rehabilitation of the street.

Director of Public Works Mike Gibbons explained the new option for the rehabilitation of Washington Street would be less intrusive with no excavation. The street would be wedged and leveled at the sunken areas, the cracks would be fixed and a 1 ½ inch overlay would be applied to the road. This option would not cause a catastrophic collapse of the road and the work would cost in the \$40,000 - \$55,000 dollar range. Councilmember Purnell stated his approval of the idea. Town Administrator Carson stated that formal bids had been received, but if the council would authorize increasing the cost up to \$50,000 dollars, the Town would not have to wait another two weeks for approval and that he could send out an addendum to the three current bidders so that the Town could enter into a contract. Councilmember Purnell made a motion to authorize spending up to \$50,000 to rehabilitate the roadbed and other improvements at Washington Street and to allow Town Administrator Carson to negotiate the addendum and contracts. Council voted to approve the request 4-0 with 1 absent.

Discussion began regarding the approval of the hours of 5 p.m. to 7 p.m. on Monday, October 31st for Halloween trick or treating. Councilmember Burrell made a motion to approve the hours of 5 p.m. to 7p.m. and council approved 4-0 with 1 absent.

Town Administrator Carson explained the schedules for the Mayor and Council meetings and holidays Councilmember Brittingham made a motion to approve the schedules and council voted to approve 4-0 with 1 absent.

Departmental reports began with Public Works Director Mike Gibbons reporting that sidewalk work on Washington Street would begin on Wednesday, October 12th, with work on Jefferson and Flower Streets to follow. He continued his report explaining he would be attending a playground safety seminar next week.

Water Resources Director Jane Kreiter reported that the Pre-bid meeting for the Spray Site addition would be held October 12th.

Electric Utility Director Tim Lawrence reported that his department would be working with Public Works on the relocation of utility poles for the sidewalk work, was preparing for the Octoberfest, had passed out notices for the District 2 stormwater meeting and installing capacitor banks to improve the power factor regarding the town's electric.

Police Chief Arnold Downing reported that his department was working on grant reports and had been busy with all of the events throughout town.

Planning and Zoning Director Chuck Ward reported that there would be no Planning and Zoning meeting on Wednesday.

Human Resources Director Jeff Fleetwood reported that flu vaccines and blood pressure testings would be held on Thursday, October 12th (has been changed to next week) and that he would be attending seminars on unemployment and State Retirement.

Economic and Community Development Director Michael Day reported the he would be attending the road dedication for Tom Patton on October 21st and that the Peach Festival for next year had been rescheduled for the first Saturday in August.

Town Administrator Tony Carson requested approval of 8 purchase orders (201200967, 201200952, 201200788, 201201009, 201200763, 201201022, 201201025 and 201201026). Councilmember Brittingham made a motion to approve all 8 purchase orders and council voted to approve 4-0 with 1 absent.

Mayor Williams asked for questions from the council. Councilmember Burrell stated that he had attended the District 1 storm water meeting and appreciated the comments from citizens. Councilmember Purnell commented on the excellent police presence throughout town.

Mayor Williams asked for comments from the public. There being none, Mayor Williams asked for questions from the press. There being none, Councilmember Burrell made a motion to adjourn and the meeting ended at 9:08 p.m.

Respectfully submitted,


Sharon Timmons

Administrative Assistant



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RESOLUTION 2011-08

AN ACT of the Mayor and Council of the Town of Berlin, Maryland approving, accepting and authorizing settlement in pending litigation:

WHEREAS, in July 2009, the Mayor and Council entered into a Legal Services Agreement with the law firms of Baron & Budd, P.C., Weitz & Luxenberg, P.C., and Funk & Bolton, P.A. (collectively, "Legal Counsel") for representation of the Town in litigation arising from contamination of public groundwater supplies (wells) and/or soils by a gasoline additive known as methyl tertiary butyl ether (MTBE) (the "MTBE Litigation"); and

WHEREAS, Legal Counsel has advised that a settlement in principal has been reached among the parties in the MTBE Litigation and that in order to finalize such settlement each plaintiff jurisdiction is required to approve the settlement accord and authorize a designee(s) of the Town to execute any and all settlement documents, on the advice of Legal Counsel, in acceptance of the terms therein described.

NOW, THEREFORE, BE IT HEREBY RESOLVED this _____ day of _____, 2011, by the Mayor and Council, that pursuant to the settlement terms and conditions recommended by Legal Counsel the Mayor is hereby authorized and directed to take any and all action necessary or appropriate in furtherance of settling the MTBE Litigation, including the execution and delivery of all documents and certificates in connection with the approval and acceptance of the MTBE Litigation settlement.

Elroy Brittingham, Sr. – Vice President

Wm. Gee Williams, III, Mayor

ATTEST: _____

Anthony J. Carson, Jr., Town Administrator



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RESOLUTION 2011-09

Resolution of the TOWN OF BERLIN MAYOR & COUNCIL approving the application and receipt of financing for a [Community Legacy Project(s)] (the "Project") further described in the Community Legacy Application ("The Application"), to be financed either directly by the Department of Housing and Community Development (the "Department") of the State of Maryland or through other departments or agencies of the State of Maryland.

WHEREAS, the TOWN OF BERLIN MAYOR & COUNCIL recognizes that there is a significant need for reinvestment and revitalization of the communities in WORCESTER COUNTY; and,

WHEREAS, the Department, either through Community Legacy or through other Programs of the Department, or in cooperation with other State departments or agencies, may provide some or all of the financing for the Project (the "Project Financing") in order to assist in making it financially feasible; and

WHEREAS, the Project is located within a priority funding area under Section 5-7B-02 of the Smart Growth Act and the Project will conform to the local zoning code; and

WHEREAS, the applicable law and regulations require approval of the Community Legacy Project and the Project Financing by the TOWN OF BERLIN MAYOR & COUNCIL and, where appropriate, by the chief elected executive official of the local subdivision;

NOW, THEREFORE BE IT RESOLVED THAT, the TOWN OF BERLIN MAYOR & COUNCIL hereby endorses the Project; and,

HEREBY approves the request for financial assistance in the form of a grant or loan, up to the amount of \$150,000; and,

BE IT FURTHER RESOLVED THAT, the chief elected executive official be, and is hereby requested to endorse this Resolution, thereby indicating [his or her] approval thereof; and,

BE IT FURTHER RESOLVED THAT, the MAYOR OF BERLIN is hereby authorized to execute documents and take any action necessary to carry out the intent of these resolutions; and,



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BE IT FURTHER RESOLVED THAT, copies of this Resolution are sent to the Secretary of the Department of Housing and Community Development of the State of Maryland.

READ AND PASSED THIS _____ day of _____, 20____.

BY ORDER: _____, I hereby certify that Resolution Number _____ is true and correct and duly adopted by the MAYOR AND COUNCIL OF THE TOWN OF BERLIN.

ATTEST/WITNESS:

TOWN OF BERLIN, MARYLAND

By: _____

Name: _____

Title: _____

Approved By: _____

Name: _____

Title: _____

[Chief elected executive official]

Date: _____

ORDINANCE 2011-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A
MARYLAND MUNICIPAL CORPORATION, AMENDING CHAPTER 80, PROPERTY
MAINTENANCE.

WHEREAS The Mayor and Council of Berlin have determined that boarded properties are undesirable in the community, and

WHEREAS The Mayor and Council have determined that boarded buildings are a cause of blight and may attract vagrants and criminal activity,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Berlin that Chapter 80 be amended as follows:

§ 80-3. Boarded Buildings.

A. Definitions.

BOARDED BUILDING - Any structure in which any door or window opening has been covered by plywood or other material with the intention of preventing entrance and/or damage to the property.

B. Purpose.

To protect the public health, safety, general welfare and to assist in maintaining a high standard of living for the residents of the Town.

C. Applicability.

It shall be unlawful for any building to be boarded within the corporate limits of the Town of Berlin.

D. Exceptions.

1. Pursuant to a Town-issued Building Permit, a property owner may board a window or door opening for a period not to exceed 30 days for the purpose of repair or replacement.
2. Within the Historic Overlay District of the B-1 Town Center District, a commercial structure may have boarded openings on the rear and/or sides of the structure if said boarded openings existed as of October 25, 2011.

E. Violations and Enforcement.

Any property in violation of this section, as determined by the Building Official, shall cause the owner of such property to be found guilty of a municipal infraction and fined the sum of \$100.00 for any single initial violation and the sum of \$200.00 for each repeat or continuing violation. Any property owner who is dissatisfied with the determination made by the Building Official may note an appeal of that determination to the Housing Board of Review within 30 days of said determination.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2011, and thereafter a statement of the substance of the Ordinance having been published as required by law was finally passed by the Town Council on the _____ day of _____, 2011.

Adopted and effective this _____ day of _____, 2011 by the Mayor and Council of the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Vice-President

Approved and effective this _____ day of _____, 2011 by the Mayor of the Town of Berlin.

Wm. Gee Williams, Mayor

ATTEST: Anthony Carson, Town Administrator

**TOWN OF BERLIN RESIDENTS
FALL BULK PICKUP
Large Item
Curbside Collection**

Fall Bulk Pickup will be held on:

Normal Trash Day	Bulk Pickup Day
Tuesdays or Wednesdays	Wednesday, November 2
Thursdays	Wednesday, November 16

Regular household garbage is not part of this collection.

Commercial and Industrial properties are not included in the collection program.

Residents must have items for collection set out by 7:00 a.m. Materials placed for pick up at any other time will not be collected.

Items to be collected

Bulky items such as:

Furniture	Toilets and Sinks	Carpet	Mattresses
Tables and Chairs		Refrigerators, washers & dryers	

Regulations

- ✓ Small items must be placed in a container at the curb and weigh no more than 100 lbs
- ✓ Collection is for Residential properties only

Items not collected

Hazardous Waste	Construction materials	Paint
Yard waste/brush	Propane tanks	Tires

FOR FURTHER INFORMATION REGARDING ACCEPTABLE TYPES OF DEBRIS, PLEASE CALL THE DEPARTMENT OF PUBLIC WORKS AT 410-641-4001.

TOWN ADMINISTRATOR'S REPORT
10-24-11

Purchase Orders

PO# 201200092 in the amount of \$2,880.00 to Worcester County for sludge disposal.

PO# 201201102 in the amount of \$1,384.55 to Barrett Chevrolet for ABS sensor for Chevy Blazer.

PO# 201201116 in the amount of \$5,462.03 to Fairbanks Morse Engine for parts for fuel injectors for Engine #1 at Power Plant.

PO# 201201132 in the amount of \$1,681.00 to Asphalt Kingdom for asphalt crack filler machine and materials.

PO# 201201136 in the amount of \$6,337.80 to Capital Tristate fixtures, poles and lamps for Prospect Drive. To be paid for by developers.

PO# 201201137 in the amount of \$2,442.30 to Garybar for street light foundation for Prospect Drive – to be paid for by developers.

PO# 201201138 in the amount of \$2,340.00 to Utility Lines Construction Services for directional bore for sidewalk installation on Grace and Jefferson streets.

Updates